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IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA ANDERSON/GREENWOOD DIVISION

Mario Brown, #301990,	Civil Action No. 8:06-2556-CMC-BHH
Plaintiff,)	
vs.)	REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE
Officer NFN McBride, SMU Lee Correctional Institution; Mrs. Cynthia York; SMU Case Worker, LCI; Major NFN Price, Security, LCI; and Warden A.J. Padula, LCI,	
Defendants.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On December 15, 2006, the defendants filed a motion to dismiss. On December 18, 2006, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff is proceeding *pro* se, the court filed a second order on January 25, 2007, giving the plaintiff through February 14, 2007, to file his response to the motion to dismiss. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and based upon consideration of the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See Ballard v. Carlson, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks United States Magistrate Judge

February 15, 2007 Greenville, South Carolina